IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2409 OF 2006

Kerba Govind Nandekar — Applicant
versus
State of Maharashtra — Respondent

Shri A.P.Mundargi for applicant.
Shri M.H.Mhatre, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18th August 2006

PC :

1. There is an ad-interim order passed by this Court on 20th June 2006 directing that the applicants shall not be arrested.

2. Thereafter, although this court has recorded in its order dated 1st April 2006 that in the second CR bearing No.73/2004 under which the applicants are apprehending arrest the incidents are different than the earlier CR No.89/2002. This Court has continued the ad-interim protection.

3. Insofar as earlier CR is concerned (CR

No.89/2002) I am informed that a charge sheet is filed and the applicants who are arrayed as accused therein as well, have been enlarged on bail by the Regular Court. Thus, custodial interrogation has already taken place.

4. In such circumstances, when the second CR is registered, the prosecution is applying that ad-interim protection granted by this court, may not be continued any longer and the application be dismissed.

5. I have perused the affidavit in reply and rejoinder.

6. In my view, it would not be proper to express any opinion at this stage whether two CRs are in relation to separate incidents or transactions. It would be appropriate that these aspects are gone into when the charge sheet in the second CR is filed. This course of action would be better inasmuch as once in respect of CR No.89/2002 the charge sheet is already filed and the matter is pending trial, any expression about whether the charges or transactions are overlapping, would not be fair, just and proper for both sides.

7. Upon taking instructions, the learned APP makes a statement that insofar as the second CR is concerned, a charge sheet against the applicants would be filed within a period of two months from today. In the light of this statement, it is desirable that the applicants continue to enjoy the protection granted by this court till the charge sheet is filed. More so, when some of them are senior citizens and having not been found to be acting in breach of the directions pertaining to co-operating with the investigation.

8. Hence following order :-

(i) In the event of the arrest of the applicant in connection with C.R.No.73 of 2004 registered with Bhudargad Police Station, the applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.25,000/- (Rs.Twenty five thousand only) with one or two local sureties in the like sum;

(ii) The bail is granted subject to condition that the applicant will attend the concerned Police Station on every Tuesday between 11.00 a.m. to 01.00 p.m..

(iii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/Investigating Agency. The applicant shall not tamper with the prosecution evidence.

(iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(v) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, he will be free to apply to the appropriate Court for appropriate relief.

(vi) Application is disposed of in the above terms.

(S.C.DHARMADHIKARI, J.)